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PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

30003030-2

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571-273-8300
FACSIMILE NUMBER

with the
USPTO

Application Number

09/955,222

Filed

September 19, 2001

First Named Inventor

Richard BROWN et al.

Art Unit

2151

Examiner

Khanh Q. DINH

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.


This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)
- ☒ attorney or agent of record.
Registration number 40,358
- ☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____



Signature

Keith J. Townsend

Typed or printed name

703-684-1111

Telephone number

June 30, 2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below.

☒ Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.8. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PATENT

Docket No.: 30003038-2US (1509-220)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

BROWN, RICHARD et al.

U.S. Patent Application No. 09/955,222

Filed: September 19, 2001

Confirmation No. 8293

Group Art Unit: 2151

Examiner: Khanh Dinh

For: CREDENTIAL TRANSFER METHOD AND APPARATUS INCLUDING SENDER -
DERIVED INDEX (Amended)

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PRE APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

It is submitted that the Examiner has erred in properly rejecting the claims pending before the PTO. Indeed, in the Advisory Action, the Examiner has rescinded the position rigorously and inflexibly maintained in both the first and final office actions and has attempted to work his way out of a very bad situation by trying to sell the notion that his improper and unfounded reliance on the primary reference to disclose the claimed "credential index" was a "typo." This does not alleviate the problem that the primary reference fails to support the rejection as purported in both office actions, and that this failure cannot be circumnavigated as a "typo."

The Examiner has, in fact, admitted that the rejection advanced in the first and final office action was incorrectly founded and has presented a new grounds of rejection in the Advisory Action. This is improper.

The new position - advanced in the Advisory Action is that Spies discloses a credential binding server #28 in Fig. 3. This highly improperly timed reliance and the resulting theory that is advanced by the Examiner, also fails to pass muster under § 103 wherein the hypothetical person of ordinary skill would have to, without any disclosure indicating the same, come to the conclusion that Spies discloses an "index." Further, the manner in which it is used as per the claimed requirements, and in fact reveals an improper quasi § 102 approach to the rejection as evidenced by the position that "Spies meets the Applicant claim as credential index."

Application No.: 09/955,222

Docket No.: 30003038-2US

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Spies discloses at column 6, line 44-59, that:

During the registration process (FIG. 1), the computing units 24(a)-24(c) at the participants 22(a)-22(c) are each programmed to generate and send a registration packet over the communication system (as represented by communication paths 30(a)-30(c)) to the credential binding server 28 at the trusted credential authority 26. The credential binding server 28 is programmed to produce unique credentials for each participant based upon their registration packets and to **send the credentials 32(a)-32(c) back over the communication system** (as represented by communication paths 34(a)-34(c)) to the multiple computing units 24(a)-24(c). These credentials are **digitally signed** by the trusted credential authority and will be used to identify and authenticate other participants during the commerce transaction. It is noted that the registration process requires interaction between each participant and the trusted credential authority. (Emphasis added)

Note that with the Spies arrangement, the credentials *per se* are sent as different from an index of credentials wherein the credentials are not disclosed *per se*. Indeed, we have a position wherein the Examiner is merely citing structure which is presumed (given hindsight of the claimed subject matter) to perform the claimed steps. Neither disclosure nor suggestion of the steps can be distilled from the art of record.

The - you are right both my rejections were untenable - but here's another that makes it ok - situation is simply unacceptable under the instant set of circumstances.

A further problem is that column 12, lines 6-16 of Schiedt et al. is relied upon to "also disclose about the credential index." However, this section of Schiedt discloses:

If MLA is not used, the set of credentials available to a member are all credentials that appear in the member's profile, that is, $\forall c \in P$.

In general, a credential is represented by an 5-tuple, $(cid, d_c, x_c, y_c, \lambda_c)$, where cid is the credential index, d_c is the category, x_c is the private key for the credential, y_c is the public key for the credential and λ_c is the MLA level defined for the credential by the domain authority. Note that within a profile, the private key can be missing for some credentials. This implies encrypt-only (or write-only) permission for that credential.

Application No.: 09/955,222

Docket No.: 30003038-2US

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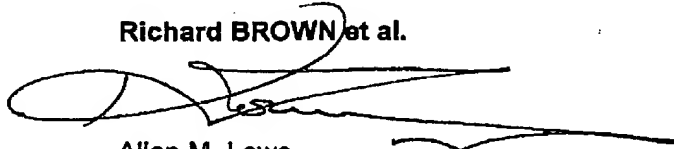
This passage mentions credential index, but contains nothing more. How is the hypothetical person of ordinary skill to be led to the claimed subject matter given the disclosure that a credential is a 5-tuple which includes an index. Indeed, the Examiner acknowledges that this section of this reference merely contains "mention" of a credential index. Again it is pointed out that the rejection is not under § 102, and most certainly cannot be a cobbled together collection of disclosures which have been gathered together with full hindsight knowledge of the claims under the purview of § 103.

The Examiner should be held accountable and compelled to at least provide one more action to properly make his case, or more appropriately, the claims be allowed and the application be passed to issue inasmuch as the "new grounds of rejection" are as untenable as those admitted to be incorrectly formulated.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 08-2025, and please credit any excess fees to such deposit account.

Respectfully submitted,

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